IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 942/2003
(Ram Kumar & Ors. Vs.State of Rajasthan & Anr.)

Date of Order : 07/12/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. None present for the petitioners
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 4.8.2003 passed by Additional Sessions Judge, Rajgarh (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioners against the order dated 16.3.2002 passed by Additional Chief Judicial Magistrate, Rajgarh (for short 'the trial court' hereinafter) was dismissed.

I have carefully gone through the memo of petition as also the orders passed by the courts below.

A complaint was filed by the non-petitioner No.2 against the petitioners before the trial court, which was sent for investigation to the SHO Police Station, Sidhmukh under Section 156 (3) Cr.P.C. The police registered the crime report No.109/2000 and proceeded with the investigation. However,

after investigation, the police filed final report on the ground that offence under Section 427 IPC is made out, but since it is non-cognizable offence, therefore, FR has been filed. On a notice to the complainant, a protest petition was filed before the trial court and the statements of complainant and his witnesses Sadhuram, Manakchand and Jugal Kishore were recorded under Section 200 and 202 Cr.P.C. On the basis material before the trial court, the trial court prima-facie came to the conclusion that there is ground to proceed against the present petitioner for the offence under Sections 147, 427 and 323/149 IPC and issued the process.

On careful perusal of the order of the trial court, it appears that the matter was investigated by two investigating officers and investigation report clearly shows that prima-facie offence is made out. Even otherwise, the investigating officer noticed that at the time of falling of the wall which alleged to have been demolished by the accused, the complainant must have suffered the injuries which has been proved by the the injury report. The complainant non-petitioner was in possession of the plot under a valid Patta. A civil suit was also filed by non-petitioner No.2 against the present petitioners in the Court of Civil Judge (Junior Division), Rajgarh. By order dated 7.4.2000, learned civil judge granted injunction in favour of the non-petitioner No.2. The petitioners alleged to have demolished the

wall and caused injuries to the complainant and one Shrawan and as such offence of criminal trespass, mischief to property and unlawful assembly as also hurt caused to the non-petitioner No.2 and one Shrawan has prima-facie been found by the trial court. The order of the trial court came to the challenged by the petitioners before the revisional court. On consideration of the material on record, the revisional court came to the conclusion that there is ground to proceed against the present petitioners and therefore, finding recorded by the trial cout was found to be based on sufficient material. Both the courts concurrently found that there is ground to proceed against the petitioners for the offences noticed above. The trial court has also given reasons in the order taking cognizance disagreeing with the conclusion arrived at by the investigating officer. In this view of the matter, I do not find any error, illegality or perversity in the concurrent conclusion recorded by the courts below. No case for interference in the inherent jurisdiction is made out. It cannot be said that the orders impugned would result in serious miscarriage of justice or abuse of process of any Court.

The criminal misc. petition has no force and it is therefore, dismissed.

(H.R.PANWAR),J.

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